

CITY OF NEWPORT

ORDINANCE NO. 2222

AN ORDINANCE AMENDING CHAPTERS 3.25, 3.30, 14.01, 14.03, 14.06, 14.11, 14.13, 14.14, 14.33, 14.44 AND 14.52, AND ADDING A NEW CHAPTER 14.51, OF TITLE XIV OF THE NEWPORT MUNICIPAL CODE TO PROMOTE THE CONSTRUCTION OF NEEDED HOUSING

(Newport File No. 3-Z-23)

Findings:

1. On May 15, 2023 the Newport City Council approved Resolution No. 3978, adopting the 2023 Newport Housing Production Strategy (HPS). The strategy sets out 13 action items the City has committed to pursuing in order to promote the construction and/or availability of needed housing. One of the action items, Item "C", calls for the City to evaluate its development codes to reduce barriers to housing development.
2. At its June 12, 2023 work session, the Planning Commission considered topic areas outlined in the Housing Production Strategy (HPS) as potential barriers to the construction of needed housing. Following that discussion, the Commission expressed its interest in seeing a draft set of code amendments that respond to those concerns. Draft amendments were developed with the Commission's input at work sessions on December 11, 2023 and January 8, 2024.
3. During its regular meeting on January 8, 2024, the Planning Commission chose to initiate the process of amending Newport Zoning Ordinance, codified as Title XIV of the Newport Municipal Code consistent with the process set out in Newport Municipal Code (NMC) Chapter 14.36.
4. The Newport Planning Commission held a public hearing on February 26, 2024 to consider testimony and comment on the draft amendments and, at the conclusion of the hearing, passed a motion recommending the City Council adopt the changes. In making its recommendation, the Commission concluded that the amendments satisfy the City's requirement that legislative amendments be necessary and further the general welfare of the community because they ensure that the Municipal Code provisions that the City enforces align with new state law. The specific amendments forwarded by the Commission for the City Council's consideration are summarized as follows:
 - a. NMC 14.01.020, Definitions, is being revised to clarify the definition of "affordable housing." The new definition aligns with the definition of the same term in NMC Chapter 3.20, making it clear that a housing development with at least half of the units being available to own or rent to families at or below 60 percent of median income qualify as "affordable."

- b. NMC 14.03.060 and 070 are being amended to allow transitional housing as a "community service" use when operated by a public or non-profit entity as defined in ORS 197.746. Tenancy is limited to a period of time that is not to exceed 30 days. This amendment adds an additional housing option in commercial and industrial zoned areas and addresses a code barrier issue identified in the HPS.
- c. NMC 14.06.060, which sets out the requirements for constructing recreational vehicle parks, has been substantially re-written for clarity and ease of use. Relevant provisions of OAR Chapter 918, Division 650, which govern the construction of recreational vehicle parks, have been incorporated into the code. Some of the changes will help reduce construction costs and others address services needed to support long term occupancy, both of which were focus areas in the HPS. The amendments allow gravel roads, limit areas where perimeter fencing/screening is required, and reduce the size requirements for RV spaces. A prohibition on outdoor storage has also been removed. Requirements that spaces be fully served, and that washer/dryer facilities be provided, are being retained recognizing that tenants could be at the parks for extended periods of time.
- d. NMC 14.11.020, relating to required outdoor recreational areas, has been updated to note that the square footage requirements can be combined into a single, usable space. This is consistent with how the provision has been applied. The requirement that the recreational areas be enclosed is also being removed, as it is not value additive. This will also save on costs.
- e. NMC 14.11.030 clarifies the City's garage setback requirements. The new language establishes that, within rights-of-way, the boundary of the access street from which the setback is measured is the curb line or, where curbs are absent, the edge of the asphalt or other boundary of the travel surface. This will provide additional flexibility in siting dwellings.
- f. NMC 14.13.020 sets out the height limitations for buildings within the City. The existing maximum building height in the City's medium and high density multi-family zone districts is 35-feet. That limit is being increased to 40-feet for multi-family buildings that have a 4:12 or steeper roof pitch. This addresses a concern raised in the HPS that multi-family projects cannot achieve three full floors of units under the existing height limits.
- g. NMC 14.14.030 stipulates the amount of off-street parking required for new development projects. It is being revised to include a parking ratio for Single Room Occupancy (SRO) uses, which the City added as a new development type to comply with mandates from the 2023 Oregon legislative session. The parking ratio will also apply to boarding houses, a use type that has been in the City's

land use code for a number of years. Boarding houses are a short-term tenancy equivalent of SROs.

- h. NMC 14.14.030 is further amended to include new on-street parking credit language. The HPS points out that a requirement that off-street parking be constructed with new residential development contributes to higher housing costs. Due to terrain and existing development patterns, Newport has a number of narrow roadways that cannot safely accommodate on-street parking; therefore, this amendment only allows developers relief from off-street parking in circumstances where there is capacity to accommodate parking demand on both sides of a public street.
 - i. NMC 14.33.020 includes language that describes the types of standards that the City allows to be modified through an adjustment or variance procedure. It is being amended to remove the prohibition on adjustments or variances that would increase densities in residential zones. This will give applicants the opportunity to pursue minimum lot size adjustments that would allow land divisions resulting in lots or parcels that fall short of minimum lot sizes. This will result in additional residential development opportunities, particularly in infill areas.
 - j. NMC 14.33.030 identifies who at the City has the authority to approve adjustments and variances. It is being amended to add a new process that allows the Community Development Director to approve a deviation less than or equal to 10% of a numerical standard if it will allow more dwelling units than would otherwise be achievable through strict adherence to the numerical standard. The granting of such a City offered deviation, as opposed to a SB 1537 adjustment, is to be a ministerial action, avoiding the time and uncertainty associated with a land use decision making process.
 - k. NMC 14.52.030 is a section of the City's land use procedural requirements that identifies who the approval authorities are for various application types. It is being amended to clarify that it is the Community Development Director, or designee, that is responsible for carrying out ministerial actions. Common types of ministerial actions are also listed.
5. The City Council held a work session on March 4, 2024 regarding the question of the proposed amendments and, after due deliberation, requested changes to clarify the scope of certain amendments, as follows:
- a. NMC 14.11.030 has been further revised to note that the garage must adhere to the standard building setbacks from property lines listed in NMC 14.13.020, Table A. This is how the code has been interpreted, and the change makes that interpretation explicitly clear.
 - b. NMC 14.33.030 has been further revised to note that the 10% ministerial adjustment to building height does not apply to building height limits at or above

40-feet in height. The amendment to NMC 14.13.020 allows multi-family developments to be increased to 40-feet in height to ensure projects can construct three floors of housing. Buildings above forty feet in height may require public review available through land use decision making processes given the potential impact to fire services and solar access on nearby properties.

6. Statewide Planning Goal 10, and its implementing statutes and administrative rules, are designed to ensure that there is (a) an opportunity within a city for the provision of adequate numbers of needed housing units, (b) the efficient use of buildable land within urban growth boundaries, and (c) to provide greater certainty in the development process so as to reduce housing costs. The amendments, summarized above, respond to the last point by allowing modest adjustments to land use requirements in a ministerial manner, eliminating the need for discretionary land use decision-making processes where there is uncertainty as to whether or not an applicant will be successful. Changes like the on-street parking credit might also help reduce costs. Accordingly, the proposed amendments are consistent with these stated objectives of Statewide Planning Goal 10.
7. The City Council held a public hearing on March 18, 2024 regarding the question of the proposed amendments, and, after considering the recommendation of the Planning Commission and evidence and argument in the record, elected to table the ordinance so that additional amendments could be made to implement housing adjustment provisions contained in SB 1537, approved by the legislature on March 4, 2024 and signed by the governor on April 4, 2024.
8. Work sessions were held by the Newport Planning Commission on June 10, 2024, and City Council on June 17, 2024, to consider the following addition changes to implement SB1537, as codified in ORS Chapter 197A:
 - a. NMC 3.25.030, Program Requirements, specifies that housing projects utilizing adjustments authorized by SB 1537 will be not be eligible to receive a multiple use property exemption.
 - b. NMC 3.30.030, Eligibility Requirements, specifies that housing projects utilizing adjustments authorized by SB 1537 will be not be eligible to receive a multiple use property exemption.
 - c. NMC 14.13.020(Table "A"), Density Limitations, is being amended to note that the additional 5-feet of height allowance for multi-family construction is an alternative to, and cannot be paired with, adjustments authorized by SB 1537.
 - d. NMC 14.14.030, Number of Parking Spaces Required, is being amended to note that the new on-street parking credit standards are an alternative to, and cannot be paired with, adjustments authorized by SB 1537.

- e. NMC 14.33.010, Purpose, is being amended to make a distinction between established City adjustment and variance processes and the standards and procedures the City will be putting in place for adjustment authorized by SB 1537, as codified in ORS Chapter 197A.
 - f. NMC 14.44.060, Streets, Accessways, and Trails, is being amended to note that the yield and shared street standards available in low volume residential areas may not be used if adjustments are being sought to off-street parking requirements as authorized by SB 1537, and implemented in new Chapter 14.51.
 - g. NMC Chapter 14.51, SB 1537 Housing Adjustments, is a new Chapter that is being added to the Title XIV of the Newport Municipal Code that includes application requirements, criteria, and procedural provisions that the City will use to review adjustment applications authorized by SB 1537, starting on January 1, 2025.
9. The Newport Planning Commission held a public hearing on August 26, 2024 to consider testimony and comment on this updated draft of Ordinance No. 2222 and, at the conclusion of the hearing, passed a motion recommending the City Council adopt the changes. In making its recommendation, the Commission concluded that the amendments satisfy the City's requirement that legislative amendments be necessary and further the general welfare of the community because they ensure that the Municipal Code provisions that the City enforces align with new state law.
10. The City Council held a public hearing on September 16, 2024 regarding the question of the proposed amendments, and, after considering the recommendation of the Planning Commission and evidence and argument in the record, adopted the ordinance, concluding that it is necessary and furthers the general welfare of the community.
11. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

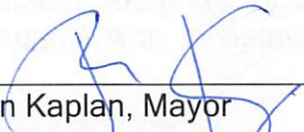
Section 1. Findings. The findings set forth above are hereby adopted in support of the amendments to Chapters 3.25, 3.30, 14.01, 14.03, 14.06, 14.11, 14.13, 14.14, 14.33, 14.44 and 14.52, and new Chapter 14.51, of Title XIV of the Newport Municipal Code adopted by Section 2 of this Ordinance.

Section 2. Municipal Code Amendment. Chapters 3.25, 3.30, 14.01, 14.03, 14.06, 14.11, 14.13, 14.14, 14.33, 14.44 and 14.52, and new Chapter 14.51, of Title XIV of the Newport Municipal Code are hereby amended as set forth in Exhibit "A".

Section 3. Effective Date. New chapter 14.51, of Title XIV of the Newport Municipal Code is effective January 1, 2025. All other provisions of this ordinance shall take effect 30 days after adoption.

Date adopted and read by title only: 09-16-2024

Signed by the Mayor on 09-17-, 2024.



Jan Kaplan, Mayor

ATTEST:



Erik Glover, Asst. City Manager/City Recorder

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strikethrough~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

CHAPTER 3.25 MULTIPLE UNIT HOUSING PROPERTY TAX EXEMPTION (MUPTX)

3.25.030 Program Requirements

In order to be considered for an exemption under this Chapter, an applicant must establish that the project meets the following program requirements:

B. Project eligibility.

1. Projects must be located within the taxing jurisdiction of the City of Newport and:
 - i. Within ¼ mile of fixed route transit service.
 - ii. Within an R-3 Zone or an R-4 Zone or a C-1 or C-3 Zone south of NE 4th St.
 - iii. Entirely outside of known hazard areas, including Active Erosion Hazard Zones, Active Landslide Hazard Zones, High Risk Bluff Hazard Zones, High Risk Dune Hazard Zones, Other Landslide Hazard Zones, and the "XXL" tsunami inundation area boundary, as depicted on the maps titled "Local Source (Cascadia Subduction Zone) Tsunami Inundation Map Newport North, Oregon" and "Local Source (Cascadia Subduction Zone) Tsunami Inundation Map Newport South, Oregon" produced by the Oregon Department of Geology and Mineral Industries (DOGAMI), dated February 8, 2013.
2. The project will be housing which is completed on or before the date specified in ORS 307.637 (Deadlines for actions required for exemption).

3. The project is not utilizing adjustments authorized under ORS Chapter 197A, and implemented in NMC Chapter 14.51.

Staff: This addresses concerns raised by the Planning Commission and City Council that the City should not be subsidizing housing projects that are working around land use standards that have been carefully crafted with community input.

CHAPTER 3.30 NON-PROFIT CORPORATION LOW-INCOME HOUSING TAX EXEMPTION

3.30.030 Eligibility Requirements

- A. Properties that satisfy the following requirements are eligible for tax exemption:
1. The property is owned or being purchased by a corporation that qualifies as an “eligible organization,” as described in 3.30.020 Subsection (2) of this Chapter, that is exempt from income taxation under 501(a) of the Internal Revenue Code.
 2. The property is:
 - i. Occupied by low-income persons; or
 - ii. Held for the purpose of developing low-income housing for a period of not more than three years. If the corporation requires additional time to develop the property for low-income housing and still seeks an exemption under this chapter, the corporation shall seek approval from the Community Development Director for an extension of time in the manner described in 3.30.060.
 3. The property or portion of the property receiving the exemption is actually and exclusively used in a manner authorized by Section 501(c)(3) or (4) of the Internal Revenue Code.

4. The corporation:

- i. Is not presently debarred, suspended, proposed for debarment, or declared ineligible by any Federal or State agency;
- ii. Has not, within the three-year period preceding the application, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; or been convicted of any Federal or State statutes of embezzlement, theft, forgery, bribery, falsification, destruction of records, making false statements, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty; and
- iii. Is not presently indicted for or otherwise criminally or civilly charged by a Federal, State, or local government entity with commission of any of the offenses enumerated in Subsection (A)(4)(II) of this Section.

5. The project is not utilizing adjustments authorized under ORS Chapter 197A, and implemented in NMC Chapter 14.51.

Staff: This addresses concerns raised by the Planning Commission and City Council that the City should not be subsidizing housing projects that are working around land use standards that have been carefully crafted with community input.

CHAPTER 14.01 PURPOSE, APPLICABILITY, AND DEFINITIONS**

14.01.020 Definitions

As used in this ordinance, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

Affordable Housing. Means residential property in which:

- A. Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; or
- B. ~~The average of all~~At least half of the units on the property ~~is~~are made available to own or rent to families with incomes of 60 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development.

Affordability under either of the above metrics is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

Staff: This change is being made for clarity, and it aligns with a change the Planning Commission recommended at its November 13, 2023 meeting to the same definition contained in NMC Chapter 3.20, relating to the Affordable Housing Construction Excise Tax.

Ministerial Action. A decision that does not require interpretation or the exercise of policy or legal judgment in evaluating approval standards. The review of a ministerial action requires no notice to any party other than the applicant and agencies that the Community Development Director, or designee, determines may be affected by the decision. A ministerial action does not result in a land use decision, as defined in ORS 197.015(10).

Staff: No change. Definition for ministerial action is listed because it relates to proposed changes to NMC Chapter 14.52.

CHAPTER 14.03 ZONING DISTRICTS

14.03.060 Commercial and Industrial Districts.

The uses allowed within each commercial and industrial zoning district are classified into use categories on the basis of common functional, product, or physical characteristics.

E. Institutional and Civic Use Categories

3. Community Services

- a. Characteristics. Public, non-profit or charitable organizations that provide local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. Services are ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join. Uses may include shelter or housing for periods of less than one month when operated by a public or non-profit agency, including transitional housing pursuant to ORS 197.746, or emergency shelters pursuant to ORS 197.782. Uses may also provide special counseling, education, or training of a public, nonprofit or charitable nature.
- b. Examples. Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, police stations, religious institutions/places of worship, fire and ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, soup kitchens, and surplus food distribution centers.
- c. Exceptions.

- i. Private lodges, clubs, and private commercial athletic or health clubs are classified as Entertainment and Recreation. Commercial museums (such as a wax museum) are in Retail Sales and Service.

Staff: This change provides for transitional housing as a “community service” use when operated by a public or non-profit entity as defined in ORS 197.746. Tenancy is as currently listed, which is for a period of time that is less than one month. Attached is a copy of the statute. This amendment adds an additional housing option in commercial and industrial zoned areas and addresses a code barrier issue listed on page 34 of the Housing Production Strategy (HPS).

14.03.070 Commercial and Industrial Uses.

The following list sets forth the uses allowed within the commercial and industrial land use categories.

“P” = Permitted uses.

“C” = Conditional uses; allowed only after the issuance of a conditional use permit.

“X” = Not allowed.

		C-1	C-2 ¹	C-3	I-1	I-2	I-3
1.	Office	P	X	P	P	P	X
2.	Retails Sales and Service						
	a. Sales-oriented, general retail	P	P	P	P	P	C
	b. Sales-oriented, bulk retail	C	X	P	P	P	C
	c. Personal Services	P	C	P	P	C	X
	d. Entertainment	P	P ²	P	P	C	X
	e. Repair-oriented	P	X	P	P	P	X
3.	Major Event Entertainment	C	C	P	P	C	X
4.	Vehicle Repair	C	X	P	P	P	X
5.	Self-Service Storage ⁶	X	X	P	P	P	X
6.	Parking Facility	P	P	P	P	P	P
7.	Contractors and Industrial Service ⁶	X	X	P	P	P	P
8.	Manufacturing and Production						
	a. Light Manufacturing	X	X	C	P	P	P

	b. Heavy Manufacturing	X	X	X	X	C	P
9.	Warehouse, Freight Movement, & Distribution	X	X	P	P	P	P
10.	Wholesale Sales	X	X	P	P	P	P
11.	Waste and Recycling Related	C	C	C	C	C	C
12.	Basic Utilities ³	P	P	P	P	P	P
13.	Utility Corridors	C	C	C	C	C	C
14.	Community Service ^{7,8}	P	C	P	P	C	X
15.	Family Child Care Home	P	P	P	X	X	X
16.	Child Care Center	P	P	P	P	P	X
17.	Educational Institutions						
	a. Elementary & Secondary Schools	C	C	C	X	X	X
	b. College & Universities	P	X	P	X	X	X
	c. Trade/Vocational Schools/Other	P	X	P	P	P	P
18.	Hospitals	C	C	C	X	X	X
19.	Courts, Jails, and Detention Facilities	X	X	P	C	X	X
20.	Mining						
	a. Sand & Gravel	X	X	X	X	C	P
	b. Crushed Rock	X	X	X	X	X	P
	c. Non-Metallic Minerals	X	X	X	X	C	P
	d. All Others	X	X	X	X	X	X
21.	Communication Facilities ⁴	P	X	P	P	P	P
22.	Residences on Floors Other than Street Grade	P	P	P	X	X	X
23.	Affordable Housing ⁵	P	P	P	P	X	X
24.	Transportation Facilities	P	P	P	P	P	P

1. Any new or expanded outright permitted commercial use in the C-2 zone district that exceeds 2,000 square feet of gross floor area. New or expanded uses in excess of 2,000 square feet of gross floor area may be permitted in accordance with the provisions of Chapter 14.34, Conditional Uses. Residential uses within the C-2 zone are subject to special zoning standards as set forth in Section 14.30.100.

2. Recreational Vehicle Parks are prohibited on C-2 zoned property within the Historic Nye Beach Design Review District.

3. Small wireless facilities shall be subject to design standards as adopted by City Council resolution.

4. Communication facilities located on historic buildings or sites, as defined in Section 14.23, shall be subject to conditional use review for compliance with criteria outlined in Sections 14.23 and 14.34.

5. Permitted as outlined in Chapter 14.15 or, in the case of hotels/motels, the units may be converted to affordable housing provided they are outside of the Tsunami Hazard Overlay Zone defined in NMC Chapter 14.50.

6. Self-service storage use; salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; and auto and truck salvage and wrecking are prohibited within the South Beach Transportation Overlay Zone, as defined in Section 14.43.020.

7. Subject to the requirements of ORS 197.782. An emergency shelter proposed within a C-2 or I-2 zone district shall be subject to a public hearing before the Newport City Council.

8. Transitional housing as defined in ORS 197.746 must be operated by a public or non-profit entity, with residential tenancy limited to a period of time that is not more than 30 days.

Staff: This is a companion change to the one above, pointing out that transitional housing is allowed, subject to limitations. Reference to "month" changed to not more than 30 days to be more precise (per public comment from Cheryl Connell, dated 2/22/24).

CHAPTER 14.06 MANUFACTURED DWELLINGS, PREFABRICATED STRUCTURES, SMALL HOMES AND RECREATIONAL VEHICLES

14.06.010 Purpose

The purpose of this section is to provide criteria for the placement of manufactured dwellings and recreational vehicles within the City of Newport. It is also the purpose of this section to provide for dwelling units other than site-built structures.

14.06.060 Recreational Vehicle Parks

Recreational vehicle parks are allowed conditionally in an R-4 or I-2 zone district, and conditionally if publicly owned in the P-1 and P-2 zoning districts (excluding those P-1 properties within the

Historic Nye Beach Design Review District), subject to subsections A through D below and in accordance with [Section 14.52](#), Procedural Requirements. Recreational vehicle parks are allowed outright in C-1, C-2, C-3, and I-1 zoning districts (excluding those C-2 properties within the Historic Nye Beach Design Review District), subject to the subsections A through D as follows:

- A. A building permit(s) shall be obtained demonstrating that the recreational vehicle park ~~The park~~ complies with the standards contained in ~~state statutes and~~ Chapter 918, Division 650 of the Oregon Administrative Rules.

Staff: The existing language is vague. Staff confirmed with Richard Baumann, the Oregon Building Codes Division Recreational Parks and Camps Specialist, that provisions relevant to RV Park construction are all contained in OAR Chapter 918, Division 650. This division of the OARs is adopted by reference in the building codes chapter of the Newport Municipal Code (Chapter 11.05).

- B. The developer of the park ~~obtains a permit from the state~~ obtains verification from Lincoln County Environmental Health that the recreational vehicle park satisfies applicable Oregon Health Authority Rules.

Staff: The existing language is no longer needed because review of recreational vehicle park projects for compliance with state laws has been delegated to local governments. The City of Newport, through its building services program, evaluates projects for compliance with construction standards listed in OAR Chapter 918, Division 650. The other local government that is involved is Lincoln County Environmental Health. They are responsible for ensuring the project complies with Oregon Health Authority Rules listed in OAR Chapter 333, Division 31. Those rules are focused on safety and sanitation, as opposed to construction. This provision of the City's Municipal Code is being amended to point out to a prospective park developer that they will need to coordinate with Lincoln County Environmental Health.

- C. The developer provides a map plan of the proposed park ~~to the City Building Official~~ that contains the following.

- 1. A cover sheet that includes:

- a. The name of the recreation park and a vicinity map identifying its location;
 - b. The name of the owner;
 - c. The name of the operator;
 - d. The name of the person who prepared or submitted the plans; and
 - e. A key identifying the symbols used on the plan.
2. The plot plan (on a separate sheet) that includes:
- a. Proposed and existing construction; and
 - b. A scale drawing of the general layout of the entire recreation park showing property survey monuments in the area of work and distances from park boundaries to public utilities located outside the park (indicated by arrows without reference to scale).
 - c. For work that involves an addition to, or a remodeling of, an existing recreation park, the plot plan must show the facilities related to the addition and/or the facilities to be remodeled.
 - d. The following features must be clearly shown and identified on the plot plan:
 - i. The footprint of permanent buildings, including dwellings, mobile homes, washrooms, recreation buildings, and similar structures;
 - ii. Any fixed facilities that are to be constructed in each space, such as tables, fire pits, or patios;
 - iii. Property line boundaries and survey monuments in the area of work;
 - iv. The location and designation of each space by number, letter or name; and
 - v. Plans for combination parks must also show the portions of the park that are dedicated to each

activity (e.g. camp ground, organizational camp, mobile home park, picnic park, recreational vehicle park, etc.).

3. Park utility systems must be clearly shown and identified on a separate sheet that contains the following information:

a. Location of space sewer connections, space water connections and service electrical outlets;

b. The location of the public water and wastewater lines from which service is to be obtained, including the location and size of the water meter;

c. The location, type and size of private water and wastewater lateral lines that are to be constructed internal to the park;

d. Street layout and connections to public street(s);

e. Disposal systems, such as septic tanks and drain fields, recreational vehicle dump stations, gray water waste disposal sumps, washdown facilities, sand filters, and sewer connections;

f. Fire protection facilities, such as fire hydrants, fire lines, tanks and reservoirs, hose boxes and apparatus storage structures;

g. The location of trash enclosures and receptacles; and

h. Placement of electrical transformers, electrical lines, gas lines, and Liquid Petroleum Gas (LPG) tank placement within the park.

4. Existing and finished grade topography for portions of the property where the park is to be located, if existing grades exceed five percent.

Staff: The above list replicates plan requirements listed in OAR 918-650-0035. The language has been adjusted for clarity, and it has been streamlined somewhat since this chapter of the Municipal Code applies only to RV parks.

D. The park complies with the following provisions (in case of overlap with a state requirement, the more restrictive of the two requirements shall apply):

1. The space provided for each recreational vehicle shall not be less than ~~600~~400 square feet, exclusive of any space used for common areas (such as roadways, general use structures, walkways, parking spaces for vehicles other than recreational vehicles, and landscaped areas). The number of recreational vehicles shall be limited to a maximum of 22 per gross acre.

Staff: OAR Chapter 918, Division 650 provides some flexibility on sizing spaces as it covers camps in addition to recreational; vehicle parks. The definition for RV's limits them to a maximum of 400 sq. ft. gross floor area in setup mode. At its 1/8/24 work session, the Planning Commission elected to reduce the minimum area requirement for a recreational vehicle space to 400 sq. ft. The Commission reviewed the existing density limit, and confirmed that it is reasonable, being roughly equivalent to high density multi-family residential construction in the city (e.g. Wyndhaven Ridge).

2. One-way roadways shall be a minimum of 12-feet in width and two-way Roadways roadways shall not be less than 30 20 feet in width. ~~if~~ parking is permitted on the margin of the roadway, then the parking area must be a minimum of 10-feet in width. ~~or less than 20 feet in width if parking is not permitted on the edge of the roadway, they shall be paved with asphalt, concrete, or similar impervious surface and designed to permit easy access to each recreation vehicle space. Roadways must be designed such that they are capable of supporting the imposed load of fire apparatus weighing up to 75,000 pounds, and they may be surfaced with asphalt, concrete, crushed rock, gravel or other similar materials.~~

Staff: The above language has been revised to align with the one-way drive isle width limitation set out in NMC 14.46.030(P). As for the overall width of the roadway and parking areas, the code has been amended to comply with the OARs, which are stricter than the City's existing code. At its 1/8/24 work session, the Planning Commission expressed a willingness to allow gravel roads, so that option

has been added. Engineering load requirements, draw from Appendix D to the 2019 Oregon Fire Code.

3. A space provided for a recreational vehicle shall be covered with crushed gravel or paved with asphalt, concrete, or similar material and be designed to provide run-off of surface water. The part of the space which is not occupied by the recreational vehicle, not intended as an access way to the recreation vehicle or part of an outdoor patio, need not be paved or covered with gravel provided the area is landscaped or otherwise treated to prevent dust or mud.
4. A recreational vehicle space shall be provided with piped potable water and sewage disposal service. A recreational vehicle staying in the park shall be connected to the water and sewage service provided by the park if the vehicle has equipment needing such service.
5. A recreational vehicle space shall be provided with electrical service.
6. Trash-Solid waste, recycling, and compostable receptacles shall adhere to the enclosure and access requirements set forth in NMC 14.11.060(B) and (C), unless an alternative approach is approved, in writing, by the solid waste and recycling service provider. for the disposal of solid waste materials. Receptacles shall be provided in convenient locations for the use of guests of the park and located in such number and be of such capacity that there is no uncovered accumulation of trash at any time. must have tight-fitting lids, covers or closable tops, and be constructed out of durable, rust-resistant, water tight, rodent-proof and washable material. Receptacles are to be provided at a minimum rate of one 30-gallon container for each four recreational vehicle parking spaces and be located within 300 feet of each recreational vehicle parking space. If the solid waste and recycling service provider indicates, in writing, that larger receptacles and/or tighter spacing is needed, then their recommendation shall be followed.

Staff: At its 1/8/24 meeting, the Commission asked if the code section could be amended to incorporate the solid waste and enclosure access requirements that the City added to NMC 14.11.060, and that change has been made. The City's discretionary language regarding the placement

and sizing of receptacles has also been replaced with specific standards listed in the OARs. Language deferring to the solid waste and recycling provider in terms of the number and size of the required receptacles was added, at the Commission's request, following the 2/26/24 hearing.

7. The total number of off-street parking spaces in the park shall be provided in conformance with [Section 14.14.030](#). Parking spaces shall be covered with crushed gravel or paved with asphalt, concrete, or similar material.
8. The park shall provide toilets, lavatories, and showers for each sex in ~~the following ratios: For each 15 recreational vehicle spaces, or any fraction thereof, one toilet (up to 1/3 of the toilets may be urinals), one lavatory, and one shower for men; and one toilet, one lavatory, and one shower for women~~ accordance with [Table 14.06.060-A](#). The toilets and showers shall afford privacy, and the showers shall be provided with private dressing rooms. Facilities for each sex shall be located in separate buildings, or, if in the same building, shall be separated by a soundproof wall.

Table 14.06.060-A

<u>Parking Spaces</u>	<u>Number of Toilets</u>		<u>Number of Sinks¹</u>	
	<u>Men's²</u>	<u>Women's</u>	<u>Men's</u>	<u>Women's</u>
<u>1-15</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
<u>16-30</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>
<u>31 – 60</u>	<u>2</u>	<u>3</u>	<u>2</u>	<u>3</u>
<u>61 - 100³</u>	<u>3</u>	<u>4</u>	<u>3</u>	<u>4</u>

1. One additional sink must be provided for each two toilets when more than six toilets are required.

2. Urinals may be acceptable for not more than 1/3 of the required toilets.

3. Recreational parks with more than 100 parking spaces shall provide one additional toilet per sex for each additional 30 spaces or fraction thereof.

Staff: At its 1/8/24 work session, the Planning Commission requested that Table 3-RV be incorporated into the code in lieu of the text explanation. That has been accomplished. The City Comprehensive Plan requires they connect to sewer service if it is within 250-feet of the site. This may be more expensive than vault toilets or privies, but is more sanitary and less likely to create odor issues.

9. The park shall provide one utility building or room containing one clothes washing machine, and one clothes drying machine for each ten recreational vehicle spaces, or any fraction thereof.
10. Building spaces required by Subsection ~~9-8~~ and ~~10-9~~ of this section shall be lighted ~~at all times of the night and day,~~ shall be ventilated, and otherwise designed in accordance with the requirements of the Oregon Structural Specialty Code shall be provided with heating facilities which shall maintain a room temperature of at least 62°F, shall have floors of waterproof material, shall have sanitary ceilings, floor and wall surfaces, and shall be provided with adequate floor drains to permit easy cleaning.

Staff: Per the Commission's request at its 1/8/24 meeting, this section has been amended to cross-reference to the building code.

11. Except for the access roadway ~~into the park,~~ the a park that is located within or adjacent to a residentially zoned area shall be screened on all sides by a sight-obscuring hedge or fence not less than six feet in height unless modified through ~~either the a~~ conditional use permit process as provided in NMC Chapter 14.34 (if a conditional use permit is required for the RV park) or ~~other applicable land use an adjustment or variance~~ procedure outlined in NMC Chapter 14.33. Reasons to modify the hedge or fence buffer required by this section may include, but are not limited to, the location of the RV park is such that adequate other screening or buffering is provided to adjacent properties (such as the presence of a grove or stand of trees), the location of the RV park within a larger park or development that does not require screening or has its own screening, or screening is not needed for portions not adjacent to other properties (such as when the RV park fronts a body of water). ~~Any Modifications~~ modifications to the hedge or

fence requirement of this subsection ~~shall not act to modify the requirement for a solid wall or should factor in any applicable screening and setback requirements fence that may otherwise be required~~ under [Section 14.18.020](#) (Adjacent Yard Buffer) for non-residentially zoned property abutting a residentially zoned property.

Staff: At its 1/8/24 meeting, the Commission asked that the site obscuring hedge or fence requirement be limited to parks located within or adjacent to in residential zoned areas. –The language has also been amended to clarify processes for adjusting the screening requirements.

~~12. Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest in the park.~~

Staff: At its 1/8/24 meeting, the Commission supported deleting this provision. The City's nuisance code requires that materials stored outside be organized in a neat and tidy manner or that they be screened from view from rights-of-way and adjacent properties.

~~13. Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.~~

Staff: This is legacy language that was relevant when the State of Oregon handled RV Park permitting. It is being deleted because it is no longer applicable. Adequacy of sanitation services is evaluated at plan review and confirmed through the building inspection process.

12. Each space within a recreational vehicle park shall be provided a minimum of 50 square feet of outdoor area landscaped or improved for recreational purposes as provided in NMC 14.11.020.

Staff: This cross-reference has been added for clarity and to ensure that the requirement is addressed as part of the review (since it is housed in a different part of the code).

CHAPTER 14.11 REQUIRED YARD, SETBACKS, AND SOLID WASTE/RECYCLABLE MATERIALS STORAGE AND ACCESS REQUIREMENTS

14.11.020 Required Recreation Areas

All multi-family dwellings, hotels, motels, manufactured dwelling parks, ~~trailer parks~~, and recreational vehicle parks shall provide for each unit/space a minimum of 50 square feet of ~~enclosed~~ outdoor area landscaped or improved for recreation purposes exclusive of required yards such as a patio, deck, or terrace. This landscaping requirement can be combined into a single active or passive recreational area accessible to all occupants of the property.

Staff: This change eliminates the requirement that the area be enclosed, as that typically requires fencing which is expensive. Further, requiring the areas be enclosed is not value additive. The City has interpreted the existing language as allowing the recreational space to be combined for multi-family projects, and the added language memorializes that interpretation. Reference to trailer park removed at Commission's request at 8.26.24 hearing.

14.11.030 Garage Setback

The entrance to a garage or carport shall adhere to the required setbacks listed in NMC 14.13.020, Table A, and be set back at least 20 feet from the access street for all residential structures. Within rights-of-way, the boundary of the access street is the curb line or, where curbs are absent, the edge of the asphalt or other boundary of the travel surface.

Staff: This change aligns with how the standard is applied, and provides flexibility for siting housing on small properties. The drawback is that driveways can be rendered substandard if the right-of-way is fully developed in the future. Changed "Within underdeveloped rights-of-way" to "Within rights-of-way" at the request of the Commission during its 12/11/23 work session. At a 3/4/24 work session, the Council asked for clarity on how the garage setback works with the building setbacks. Both apply, and that clarification has been made to the code.

CHAPTER 14.13 DENSITY LIMITATIONS

14.13.010 Density Limitations

A residential building structure or portion thereof hereafter erected shall not exceed the maximum living unit density listed in Table A, as hereinafter set forth, for the zone indicated, except in the case of a lot having less than is required and of record prior to December 5, 1966, which may be occupied by a single-family dwelling unit, providing other requirements of this ordinance are complied with, except to the extent that a higher density may specifically be allowed by any term or provision of this Ordinance.

(BY THIS REFERENCE, THERE IS INCLUDED HEREIN AND MADE A PART HEREOF, A TABLE OF DENSITY AND OTHER REQUIREMENTS, DESIGNATED "TABLE A".)

NMC 14.13.020

Table "A"

Zone District	Min. Lot Area (sf)	Min. Width	Required Setbacks ^{3,7}			Lot Coverage (%)	Max. Building Height	Density (Land Area Required Per Unit (sf))
			Front/2 nd Front ¹	Side	Rear			
R-1	7,500 sf	65-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft & 8-ft	15-ft	54 %	30-ft	SFD - 7,500 sf ² Duplex - 3,750 sf ²
R-2	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	57%	30-ft	SFD – 5,000 sf ² Duplex - 2,500 sf ² Townhouse - 2,500 sf ³
R-3	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	60%	35-ft <u>or</u> 40-ft ⁹	1,250 sf ³
R-4 ⁴	5,000 sf ³	50-ft	15-ft / 15-ft or 20-ft / 10-ft	5-ft	10-ft	64%	35-ft <u>or</u> 40-ft ⁹	1,250 sf ^{3,5}
C-1	5,000 sf	0	0 or 15-ft from US 101 ⁸	0	0	85-90% ⁶	50-ft ⁶	n/a
C-2 ⁴	5,000 sf	0	0 or 15-ft from US 101 ⁸	0	0	85-90% ⁶	50-ft ⁶	n/a
C-3	5,000 sf	0	0 or 15-ft from US	0	0	85-90% ⁶	50-ft ⁶	n/a

			101 ⁸					
I-1	5,000 sf	0	15-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
I-2	20,000 sf	0	15-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
I-3	5 acres	0	15-ft from US 101	0	0	85-90% ⁶	50-ft ⁶	n/a
W-1	0	0	0	0	0	85-90% ⁶	40-ft ⁶	n/a
W-2	0	0	0	0	0	85-90% ⁶	35-ft ⁶	n/a
MU-1 to MU-10 Mgmt. Units	0	0	0	0	0	100%	40-ft ⁶	n/a
P-1	0	0	0	0	0	100%	50-ft	n/a
P-2	0	0	0	0	0	100%	35-ft	n/a
P-3	0	0	0	0	0	100%	30-ft	n/a

¹ Front and second front yards shall equal a combined total of 30-feet. Garages and carports shall be setback at least 20-feet from the access street for all residential structures.

² Density limitations apply where there is construction of more than one single-family dwelling (SFD) or duplex on a lot or parcel.

³ Density limitations for townhouses and cottage clusters is the minimum area required per townhouse or cottage cluster unit; whereas, minimum lot area, minimum lot width, and setbacks, apply to the perimeter of the lot, parcel, or tract dedicated to the townhouse or cottage cluster project.

⁴ Special Zoning Standards apply to R-4 and C-2 zoned property within the Historic Nye Beach design Review District as outlined in NMC 14.30.100.

⁵ Density of hotels, motels, and non-residential units shall be one unit for every 750 sf of land area.

⁶ Height limitations, setbacks, and lot coverage requirements for property adjacent to residential zones are subject to the height and yard buffer requirements of NMC Section 14.18.

⁷ Front and 2nd front setbacks for a townhouse project or cottage cluster project shall be 10-feet except that garages and carports shall be setback a distance of 20-feet.

⁸ The 15-foot setback from US 101 applies only to land situated south of the Yaquina Bay Bridge.

⁹ The 40-ft height allowance is limited to multi-family uses with pitched roof construction, where the predominate roof pitch is 4:12 or steeper, and where no adjustments are being sought under the provisions of NMC Chapter 14.51.

Staff: This amendment addresses the concern outlined in the HPS that multi-family construction with pitched roofs cannot achieve three full floors of units with a 35-ft maximum building height. Wyndhaven Ridge Phase II is an example, where a 10% adjustment was needed in order for three-story apartment buildings to be constructed (File No. 1-ADJ-22). The roof pitch in that case was 5:12. Setting a roof pitch minimum is reasonable, since one of the purposes behind a building height limit is to ensure neighboring properties have reasonable solar access. Pitched roof construction has less of an impact in that regard as opposed to a building with a flat roof. Further, buildings with a lower roof pitch, or none at all, should be able to achieve three floors of dwelling units with a 35-foot building height limit. Revised roof pitch to 4:12 per the Commission's request at its 12/11/23 work session.

The City's intent is to offer the 40-foot building height allowance for multi-family projects and other changes outlined in this ordinance as a ministerial alternative to the adjustment options outlined in SB 1537, and implementing with a new NMC Chapter 14.51. Additional language, added to Footnote 9, makes it clear that the two are not additive, with applicant's being able to pursue one or the other but not both.

CHAPTER 14.14 PARKING AND LOADING REQUIREMENTS

14.14.010 Purpose

The purpose of this section is to establish off-street parking and loading requirements, access standards, development standards for off-street parking lots, and to formulate special parking areas for specific areas of the City of Newport. It is also the purpose of this section to implement the Comprehensive Plan, enhance property values, and preserve the health, safety, and welfare of citizens of the City of Newport.

14.14.030 Number of Parking Spaces Required

A. Off-street parking shall be provided and maintained as set forth in this section. Such off-street parking spaces shall be provided prior to issuance of a final building inspection, certificate of

occupancy for a building, or occupancy, whichever occurs first. For any expansion, reconstruction, or change of use, the entire development shall satisfy the requirements of [Section 14.14.050](#), Accessible Parking. Otherwise, for building expansions the additional required parking and access improvements shall be based on the expansion only and for reconstruction or change of type of use, credit shall be given to the old use so that the required parking shall be based on the increase of the new use. Any use requiring any fraction of a space shall provide the entire space. In the case of mixed uses such as a restaurant or gift shop in a hotel, the total requirement shall be the sum of the requirements for the uses computed separately. Required parking shall be available for the parking of operable automobiles of residents, customers, or employees, and shall not be used for the storage of vehicles or materials or for the sale of merchandise. A site plan, drawn to scale, shall accompany a request for a land use or building permit. Such plan shall demonstrate how the parking requirements required by this section are met.

Parking shall be required at the following rate. All calculations shall be based on gross floor area unless otherwise stated.

1.	General Office	1 space/600 sf
2.	Post Office	1 space/250 sf
3.	General Retail (e.g. shopping centers, apparel stores, discount stores, grocery stores, video arcade, etc.)	1 space/300 sf
4.	Bulk Retail (e.g. hardware, garden center, car sales, tire stores, wholesale market, furniture stores, etc.)	1 space/600 sf
5.	Building Materials and Lumber Store	1 space/1,000 sf
6.	Nursery – Wholesale Building	1 space/2,000 sf 1 space/1,000 sf
7.	Eating and Drinking Establishments	1 space/150 sf
8.	Service Station	1 space/pump
9.	Service Station with Convenience Store	1 space/pump + 1 space/ 200 sf of store space
10.	Car Wash	1 space/washing module + 2 spaces
11.	Bank	1 space/300 sf
12.	Watersport/Marine Terminal	20 spaces/berth
13.	General Aviation Airport	1 space/hangar + 1 space/300 sf of terminal

14.	Truck Terminal	1 space/berth
15.	Industrial	1.5 spaces/1000 sf
16.	Industrial Park	1.5 spaces/5,000 sf
17.	Warehouse	1 space/2,000 sf
18.	Mini-Warehouse	1 space/10 storage units
19.	Single-Family Detached Residence	2 spaces/dwelling
20.	Duplex	1 space/dwelling
21.	Apartment	1 space/unit for first four units + 1.5 spaces/unit for each Additional unit
22.	Condominium (Residential)	1.5 spaces/unit
23.	Townhouse	1.5 spaces/unit
24.	Cottage Cluster	1 space/unit
25.	Elderly Housing Project	0.8 space/unit if over 16 dwelling units
<u>26.</u>	<u>Boarding House/Single Room Occupancy</u>	<u>0.5 spaces/guest room or unit</u>
26 <u>27.</u>	Congregate Care/Nursing Home	1 space/1,000 sq. ft.
27 <u>28.</u>	Hotel/Motel	1 space/room + 1 space for the manager (if the hotel/motel contains other uses, the other uses Shall be calculated separately
28 <u>29.</u>	Park	2 spaces/acre
29 <u>30.</u>	Athletic Field	20 spaces/acre
30 <u>31.</u>	Recreational Vehicle Park	1 space/RV space + 1 space/10 RV spaces
31 <u>32.</u>	Marina	1 space/5 slips or berths
32 <u>33.</u>	Golf Course	4 spaces/hole
33 <u>34.</u>	Theater	1 space/4 seats
34 <u>35.</u>	Bowling alley	4 spaces/alley
35 <u>36.</u>	Elementary/Middle School	1.6 spaces/classroom
36 <u>37.</u>	High School	4.5 spaces/classroom
37 <u>38.</u>	Community College	10 spaces/classroom
38 <u>39.</u>	Religious/Fraternal Organization	1 space/4 seats in the main auditorium
39 <u>40.</u>	Day Care Facility	1 space/4 persons of license occupancy
40 <u>41.</u>	Hospital	1 space/bed
41 <u>42.</u>	Assembly Occupancy	1 space/8 occupants (based on 1 occupant/15 sf of exposition/meeting/assembly

		room conference use not elsewhere specified
--	--	---

Staff: With Ordinance No. 2216, the City implemented land use related mandates from the 2023 Oregon Legislative Session. This included adding Single Room Occupancy (SRO) uses in all residential zones. That set of amendments did not include a set of minimum parking requirements. This revision creates a minimum off-street parking requirement for SRO projects. It is in line with standards from other jurisdictions (see attached Eugene, Medford, and Salt Lake examples). The City allows Boarding Houses, which are effectively the short-term tenancy equivalent of SROs, but never established a minimum parking standard for them. Since the uses are so similar, this change will apply to them as well. This change was added by staff following the 1/8/24 Commission work session.

B. On-Street Credit. A dwelling unit on property zoned for residential use, located outside of special parking areas as defined in NMC 14.14.100, shall be allowed an on-street parking credit that reduces the required number of off-street parking spaces by one off-street parking space for every one on-street parking space abutting the property subject to the following limitations:

1. On-street parking is available on both sides of the street adjacent to the property; and
2. The dwelling unit is not a short-term rental; and
3. Each on-street parking space is 22-ft long by 8-ft wide and parallel to the edge of the street, unless an alternate configuration has been approved and marked by the City of Newport; and
4. Each on-street parking space to be credited must be completely abutting, and on the same side of the street, as the subject property. Only whole spaces qualify for the on-street parking credit; and
5. On-street parking spaces will not obstruct a clear vision area required pursuant to Section 14.17; and
6. No adjustments are being sought under the provisions of NMC Chapter 14.51; and
7. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting

general public use of on-street parking spaces are allowed except as authorized by the City of Newport.

Staff: This is the final draft of on-street parking credit language that the Planning Commission considered in 2021, but elected not to implement at that time. It was part of a package of code amendments to address HB 2001 requirements. As noted in the HPS (pg. 34), the requirement that off-street parking be constructed with new residential development contributes to the higher housing costs. This would allow a credit only where there is capacity to accommodate parking demand along a public street. It would not be an option along narrow roads where parking areas do not exist or are limited to one side of the street.

SB 1537 allows an applicant to seek relief from off-street parking requirements and other city residential land use standards through a limited land use decision making process. The above on-street parking credit standards and other changes in this ordinance are intended to serve as a ministerial alternative to the adjustment options outlined in SB 1537, and implementing with a new NMC Chapter 14.51.

The location where parking can occur within the right-of-way was clarified in response to feedback from the Commission at the 12/11/23 work session. The above provisions align with Chapter 6.15, Parking in Rights-of-Way, which provides;

“6.15.005(A) Method of Parking. Parking is permitted only parallel with the edge of the street, headed in the direction of lawful traffic movement, except where the street is marked or signed for angle parking. Where parking spaces are marked, vehicles shall be parked within the marked spaces. Parking in angled spaces shall be with the front head-in to the curb, except that vehicles delivering or picking up goods may be backed in. Where curbs exist the wheels of a parallel-parked vehicle shall be within 12 inches of the curb, and the front of an angle-parked car shall be within 6 inches of the curb.”

CHAPTER 14.33 ADJUSTMENTS AND VARIANCES

14.33.010 Purpose

The purpose of this section is to provide flexibility to numerical development standards in recognition of the wide variation in

property size, configuration, and topography within the City of Newport and to allow reasonable and economically practical development of a property. Adjustment and variance options outlined in this Chapter are separate from statutory adjustments listed in ORS Chapter 197A, and codified in Chapter 14.51.

14.33.020 General Provisions

- A. Application for an Adjustment or Variance from a numerical standard including, but not limited to, size, height, or setback distance may be processed and authorized under a Type I or Type III decision-making procedure as provided by [Section 14.52](#), Procedural Requirements, in addition to the provisions of this section.
- B. No Adjustment or Variance from a numerical standard shall be allowed that would result in a use that is not allowed in the zoning district in which the property is located, ~~or to increase densities in any residential zone.~~
- C. In granting an Adjustment or Variance, the approval authority may attach conditions to the decision to mitigate adverse impacts which might result from the approval.

Staff: This amendment would open the door to minimum lot size adjustments that would allow land divisions resulting in lots or parcels that fall short of the minimum lot size. This could create additional residential development opportunities, particularly in infill areas.

14.33.030 Approval Authority

Upon receipt of an application, the Community Development Director or designate shall determine if the request is to be processed as an Adjustment or as a Variance based on the standards established in this subsection. There shall be no appeal of the Director's determination as to the type of application and decision-making process, but the issue may be raised in any appeal from the final decision on the application.

- A. A deviation less than or equal to 10% of a numerical standard shall be granted if the Community Development Director determines that it will allow one or more dwelling units than would otherwise be achievable through strict adherence to the numerical standard. The granting of such deviation shall be a ministerial action. This subsection does not apply to building

height limitations, where the maximum height allowance is set at or above 40-feet.

- A-B Other deviations ~~of~~ less than or equal to 10% of a numerical standard shall satisfy criteria for an Adjustment as determined by the Community Development Director using a Type I decision-making procedure.
- BC. A deviation of greater than 10%, but less than or equal to 40%, of a numerical standard shall satisfy criteria for an Adjustment as determined by the Planning Commission using a Type III decision-making procedure.
- CD. Deviations of greater than 40% from a numerical standard shall satisfy criteria for a Variance as determined by the Planning Commission using a Type III decision-making procedure.

Staff: This change is an alternative way of addressing the challenge that three story multi-family projects have with a 35-foot height limit. It would allow staff to authorize adjustments to dimensional standards (up to 10%) in a ministerial fashion if the change results in additional dwelling units. The Wyndhaven Ridge Phase II example, where they needed 38.5 feet of building height, would have benefitted from this change.

Like the parking example, this code change would also get ahead of the new version of HB 3414, which is seeking to mandate that local governments provide small adjustments of this nature when requested by a housing developer.

The language was reworked, at the Planning Commission's request, to clarify that it is the Community Development Director that determines whether or not the change will allow additional dwelling units. That discussion occurred at the 12/11/23 work session. The Commission also inquired about options if the Director finds the change will not result in additional units. If that occurs, then the applicant would have the option of pursuing the deviation under Subsection (B) which involves an appealable land use decision.

At a 3/4/24 work session, Council members expressed a concern about the potential aggregate impact of the 40-ft height allowance for multi-family and this 10 percent ministerial adjustment. The chance that a multi-family housing developer would seek up to a 10% adjustment to the 40-foot height limit to get an additional fourth floor is slim, but possible. It is a cost factor, as four floor

apartments trigger the need for a Secondary access (OSSC Table 504.3) and the fire sprinkler system has to be upgraded, which is costly (OSSC Table 1006.34(1)). That said, , the highlighted language has been added to preclude approval of a second height adjustment as a ministerial act.

CHAPTER 14.44 TRANSPORTATION STANDARDS

14.44.060 Streets, Pathways, Accessways, and Trails

B. Travel Lane and On-Street Parking. Travel lanes and on-street parking areas shall be sized in accordance with the standards in Table 14.44.060-B

Table 14.44.060-B. Minimum On-Street Parking and Roadway Widths

Roadway Classification	Arterial Street ¹	Major Collector	Neighborhood Collector	Local Street	Yield <u>Shared</u> Street ²
Through Lanes	2 to 4	2	2	2	1
Min. Lane Width	11-12 ft. ³	10 ft. ⁴	10 ft. ⁴	10 ft.	12 – 16 ft.
Median/Center Turn Lane	11-14 ft. ⁶	11 ft. ⁷	11 ft. ⁷	None	None
Min. On-Street Parking Width	Context Dependent, 7-8 ft.	8 ft.	8 ft.	7-8 ft. ⁸	7-ft one side ⁸

¹. Although guidance is provided for arterial streets, these are under State jurisdiction. Values presented in this table are consistent with ODOT's urban design guidance. For detailed design recommendations on US 101 and US 20, the identified urban contexts for Newport are provided in the appendix and ODOT's urban design guidance is publicly available.

². For use along low volume local streets in residential areas only, where no adjustments are being sought to off-street parking requirements as authorized under ORS Chapter 197A, and implemented in NMC Chapter 14.51. Yield streets are an option for new streets, while shared streets are an option for existing streets. Requires intermittent on-street parking on at least one side to allow for vehicle queuing and passing opportunities. For blocks of no more than 300 ft. in length, and with fire access roads at both ends, a 16 ft. width may apply to local streets that carry fewer than 500 vehicles per day, or a 12 ft. width may apply to local streets that carry fewer than 150 vehicles per day. For blocks longer than 300 feet, this also requires 30 ft.

long pullouts/no parking zones every 150 ft. to allow for 20 ft. wide clear areas (excluding drainage swales) or 26 ft. wide clear areas near fire hydrants.

3. 11 ft. travel lanes are preferred for most urban contexts within Newport. 11 ft. travel lanes are standard for central business district areas in ODOT's urban design guidance. Adjustments may be required for freight reduction review routes. Final lane width recommendations are subject to review and approval by ODOT.
4. Travel lanes widths of 11-12 ft. are required along designated local truck routes.
5. A minimum 8-ft.-wide pedestrian refuge should be provided at marked crossings. Otherwise, a median can be reduced to a minimum of 4 ft. at midblock locations that are more than 150 ft. from an arterial (i.e., US 101 and US 20), before widening at intersections for left-turn lanes (where required or needed).
6. ODOT's urban design guidance recommends a 14 ft. lane for speeds above 40 mph. Final lane width recommendations are subject to review and approval by ODOT.
7. Center turn lane required at and within 150 ft. of intersections with arterials (i.e., US 101 and US 20). Otherwise, it is optional and should be used to facilitate turning movements and/or street crossings; minimum 8-ft-wide median required where refuge is needed for pedestrian/bicycle street crossings.
8. On-street parking is preferred along all City streets where block spacing, and system connectivity standards are met. An 8 ft. width is required in most areas, with a 7 ft. width only allowed along local streets in residential areas. Local yield/shared streets require intermittent on-street parking on at least one side to allow for vehicle queuing and passing opportunities, with an 8 ft. width required when on only one side, and 7 ft. width allowed when on both sides. Shoulders totaling 8 ft. in collective width may also be provided in lieu of parking.

Staff: This change is being made because these narrow street standards, adopted in part to reduce capital costs for housing development, lack on-street options that other City street sections possess. Consequently, if adjustments to off-street parking requirements were to be granted, these streets would become heavily congested, if not impassible, limiting accessibility and compromising fire ingress and egress and public safety in general.

CHAPTER 14.51 SB 1537 HOUSING ADJUSTMENTS

14.51.005 Purpose

The purpose of this chapter is to allow housing adjustments in accordance with SB 1537(2024) as codified in ORS Chapter 197A.

Staff: A 2024 version of the Oregon revised statutes has not yet been released. The housing adjustment allowances in SB 1537(2024) have been placed in ORS Chapter 197A. The citations listed below will be adjusted to align with changes made as part of the State's codification process.

14.51.010 Criteria to Allow an Adjustment

Applicants submitting applications meeting the requirements of this Chapter 14.51 and all requirements of SB 1537, Section 38(2) may request up to ten (10) “adjustments,” as that term is defined and described in SB 1537, Subsections 38(1), (4) and (5) (referred to herein to as “housing adjustments”). Each requested housing adjustment must be justified by at least one of the following criteria:

- A. The adjustment will enable development of housing that is not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations;
- B. The adjustment will enable development of housing that reduces the sale or rental prices per residential unit;
- C. The adjustment will increase the number of housing units within the application;
- D. All of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to moderate income households as defined in ORS 456.270 for a minimum of 30 years;
- E. At least 20 percent of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to low- income households as defined in ORS 456.270 for a minimum of 60 years;
- F. The adjustments will enable the provision of accessibility or visitability features in housing units that are not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations; or
- G. All of the units in the application are subject to a zero equity, limited equity, or shared equity ownership model including resident-owned cooperatives and community land trusts making them affordable to moderate income households as described in ORS 456.270 to 456.295 for a period of 90 years.

Staff: This is a basic approach, offered by the Local Government Law Group, for folding the SB 1537(2024) housing adjustment provisions into the City's Municipal Code. While the code could

be further fleshed out with details contained in the above referenced ORS subsections, that level of effort may not be warranted given that the statutes sunset in 2032.

14.51.015 Application Information

An applicant shall support each requested housing adjustment with a statement explaining how the requested adjustment meets at least one of the criteria established in NMC 14.51.010. Such explanations may include, but are not limited to:

- A. Design plans that compare project designs with and without the adjustment showing that the requested adjustment is necessary to increase the number of units within the project.
- B. Financial analyses showing the costs of the project with and without the adjustment and showing that the proposed adjustment is either:
 - 1. Essential to ensure the overall project feasibility; or
 - 2. Will meaningfully reduce the sale price and/or rents of the project for future occupants.
- C. Where cost savings are proposed, a description of how savings associated with the adjustment will be passed onto future purchasers or renters of the project.
- D. Legal documents regarding how the affordability provisions justifying the adjustment will be maintained for the periods listed in Subsection 14.51.010 (4), (5) and (7), if applicable.

Staff: This is a middle of the road approach on requiring an applicant to substantiate its eligibility statement. It can be scaled back to reflect only the statutory language, or it can be enhanced to require more evidentiary support. The legislature intended the process to be expeditious, so the City should be cautious about asking for too much information.

14.51.020 Housing Adjustment Process

- A. An application for each requested housing adjustment is required in addition to any other land use application required for the proposed project. Applicants may choose to consolidate

one or more housing adjustment applications, including any land use action required for the project.

B. A property owner may initiate a housing adjustment application by submitting:

1. An application on forms provided by the City.
2. A statement identifying the criterion established in NMC 14.51.010 met by the proposal.
3. Submittals satisfying Section 14.51.015 that conclusively demonstrate that the proposed adjustment meets the identified criterion.
4. An application fee, as established by Council resolution.

C. A housing adjustment application shall be processed as a limited land use decision, in accordance with SB 1537, Section 38(3) and ORS 197.195. Such review procedures include, but are not limited to:

1. Written notice to property owners within 100 feet of the subject property.
2. 14-day written comment period prior to decision issuance.
3. Only the applicant may appeal the decision.
4. Any appeal is filed as outlined in Subsection 14.52.100, and shall be heard by the Newport Planning Commission.
5. Housing adjustment appeal hearings shall be consolidated with any associated public hearing required for the project, unless the applicant requests separate hearings.

Staff: SB 1537 includes a modified version of the statutory limited land use decision making process, which has been incorporated above.

14.51.025 No Cumulative Effect

Adjustments to development and design standards, as required by SB 1537 and available under this Chapter, may not be combined

with or added to any other adjustment available elsewhere under the provisions of Title XIV of the Newport Municipal Code.

Staff: This language addresses a concern expressed by the Planning Commission and City Council about the potential compounding effect of the City's new ministerial adjustments and those offered through SB 1537. This language makes it clear that applicants must choose one or the other.

14.51.030 Operative Dates

This chapter is operative effective January 1, 2025 through January 2, 2032, unless the sunset date is modified by the Oregon Legislature.

Staff: The operative and sunset dates have been taken from SB 1537.

CHAPTER 14.52 PROCEDURAL REQUIREMENTS

14.52.030 Approving Authorities

The approving authority for the various land use and ministerial actions shall be as follows:

C. Community Development Director. Land use actions decided by the Director are identified below. A public hearing is not required prior to a decision being rendered. Items with an “*” are subject to Director review as defined in the section of the ordinance containing the standards for that particular type of land use action. Decisions made by the Community Development Director may be appealed to the Planning Commission.

1. Conditional use permits*.
2. Partitions, minor.
3. Replats, minor.

4. Estuarine review.
5. Adjustments*.
6. Nonconforming use changes or expansions*.
7. Design review*.
8. Ocean shorelands review.
9. Any land use action defined as a Type I or Type II decision for which the Community Development Director is the initial approving authority.
10. Any land use action seeking to modify any action or conditions on actions above previously approved by the Community Development Director where no other modification process is identified.

11. Ministerial actions necessary to implement Title XIV of the Newport Municipal Code, including final plats, property line adjustment conveyance documents, public improvement agreements, temporary uses (unless an alternative process is provided), and confirmation that building permits satisfy clear and objective approval standards.

Staff: This revision is needed to clarify that it is the Community Development Director, or designee, that is responsible for carrying out ministerial actions. Common types of ministerial actions are also listed.